

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

ELIJAH HOGGATT

PETITIONER

VERSUS

CIVIL ACTION NO. 5:04cv293-DCB-JCS

UNITED STATES OF AMERICA

RESPONDENT

MEMORANDUM OPINION AND ORDER

This cause is before the Court on the petitioner's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 [docket entry 1] in civil action 5:04cv293.

Hoggatt filed a previous § 2255 motion to vacate, set aside, or correct sentence on March 11, 2002. That previous motion was correctly filed under civil action 5:02cv75 and criminal action 5:99cr7. The government responded to Haggatt's motion on September 13, 2004. Thereafter, Hoggatt filed a reply to the government's response on November 9, 2004, that was erroneously labeled as a new § 2255 motion and given a new civil action number, 5:04cv293. This Court denied Hoggatt's § 2255 motion in civil action 5:02cv75 on March 11, 2005. Thus, civil action 5:04cv293 should also be dismissed with prejudice. Accordingly,

IT IS HEREBY ORDERED that Petitioner Elijah Hoggatt's motion to vacate under 28 U.S.C. § 2255 [docket entry 1] in civil action 5:04cv293 is **DISMISSED WITH PREJUDICE**.

SO ORDERED, this the 24th day of August, 2005.

S/DAVID BRAMLETTE

UNITED STATES DISTRICT JUDGE